**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

**TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928**

**WP(C).No. 35916 of 2005(A)**
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**PETITIONER:**
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**A. SIVAN, DRAWING TEACHER,**
**HIGH SCHOOL, MUNDOOR, PALAKKAD DISTRICT.**

**BY ADV. SRI.GEORGE ABRAHAM**

**RESPONDENTS:**
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**1. STATE OF KERALA, REPRESENTED BY**
**SECRETARY TO GOVERNMENT, GENERAL EDUCATION**
**DEPARTMENT, SECRETARIAT, TRIVANDRUM.**

**2. DIRECTOR OF PUBLIC INSTRUCTIONS,**
**THIRUVANANTHAPURAM.**

**3. DISTRICT EDUCATIONAL OFFICER,**
**PALAKKAD.**

**4. K.V. BINDRA KUMARI,**
**MUSIC TEACHER, HIGH SCHOOL, MUNDUR,**
**PALAKKAD DISTRICT.**

**BY ADV. SRI.N.RAGHURAJ**
**SRI.A.V.RAVI**
**SMT.K.AMMINIKUTTY**
**GOVERNMENT PLEADER SRI.T.T.MUHAMMED**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON ON 27/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**APPENDIX**

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| **EXT.P1** | **TRUE COPY OF THE ORDER NO.D.DIS/B6/3254/03 DTD. 7-5-03 ISSUED BY R3** |
| **EXT.P2** | **TRUE COPY OF THE PROCEEDINGS OF R2 DTD. 22-3-03** |
| **EXT.P3** | **TRUE COPY OF THE G.O.(RT)NO.4810/03/G.EDN. DTD. 21-11-03** |
| **EXT.P4** | **TRUE COPY OF THE G.O.(MS)NO.352/2000/G.EDN. DTD. 25-10-00** |
| **EXT.P5** | **TRUE COPY OF THE G.O.(P)NO.403/2002/G.EDN. DTD. 4-12-02** |
| **EXT.P6** | **TRUE COPY OF THE G.O.(RT)NO.5496/05/G.EDN. DTD. 24-11-05** |
| **EXT.P7** | **TRUE COPY OF STAFF FIXATION ORDER OF HIGH SCHOOL, MUNDUR FOR THE ACADEMIC YEAR 2003-04** |
| **EXT.P8** | **TRUE COPY OF THE STAFF FIXATION ORDER OF HIGH SCHOOL, MUNDUR FOR THE ACADEMIC YEAR 2004-05** |
| **EXT.P9** | **TRUE COPY OF STAFF FIXATION ORDER OF HIGH SCHOOL, MUNDUR FOR THE ACADEMIC YEAR 2005-06** |
| **EXT.P10** | **TRUE COPY OF THE STAFF FIXATION ORDER OF HIGH SCHOOL, MUNDUR FOR THE ACADEMIC YEAR 2006-07** |
| **EXT.P11** | **TRUE COPY OF THE JUDGMENT DTD. 15-3-02 IN O.P.NO.6518/1997** |

**/True Copy/**

**PA to Judge.**

**K.M.JOSEPH, J.**

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**W.P.(C).No.35916 OF 2005**

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Dated this the 27th day of February, 2007

**JUDGMENT**

Case of the petitioner in brief is as follows:

Petitioner was appointed as Drawing Teacher in the U.P.Section of the High School. Later he was promoted to the High School section with effect from June 1998. By Ext.P1 petitioner was reverted to the U.P. Section. Petitioner challenged the same by filing O.P.No.15092/03 before this court. This court directed the Government to reconsider the matter after hearing the affected parties. Ext.P3 is the order passed by the Government. As per Ext.P3 order, petitioner's reversion to the U.P.Section was upheld stating that there is no change in pay and allowance. Petitioner relies on Exts.P4 and P5. He brought these facts to the notice of the Government. But by Ext.P6, Government rejected the case of the petitioner. Ext.P6 is said to be contrary to the

amendment made in Chapter XXIII as also in Exts.P4 and P5. According to the petitioner, petitioner is entitled to continue in the High School section as Drawing teacher. Exts.P7 to P10 are staff fixation orders for the periods from 2004-05 to 2006-07. Ext.P11 is the judgment of this court. According to the petitioner, there are 40 periods available and therefore there can be two specialist teachers in the high school section.

2. Learned Government Pleader would point out that petitioner is not having SSLC and therefore he is not qualified. Per contra, learned counsel for the petitioner places reliance on sub rule 3 and 4 of Rule 1 of Chapter XXXI of the K.E.R. According to him, he is entitled even without S.S.L.C to work in the high school section as specialist teacher despite the provisions of sub rule 3 of Rule 2. According to him, in view of third proviso to sub rule 4 of rule 6 of Chapter XXIII petitioner can be accommodated along with the fourth respondent in the high school section.

3. Without expressing any view on the merits of the contentions of the petitioner, I feel that a decision can be taken on

these questions whether petitioner can be accommodated in the high school section and whether petitioner is qualified in terms of sub rule 3 and 4 of rule 1 of Chapter XXXI read with third proviso to sub rule 4 of rule 6 of Chapter XXIII. As far as the claim against the fourth respondent is concerned, I make it clear that it stands confirmed. For the purpose of dealing with the aspects as to whether petitioner can continue in the high school and whether petitioner is qualified and entitled to be continued in the light of Exts.P7 to P10 staff fixation orders in the high school itself as Drawing teacher. Ext.P6 is quashed and the first respondent will consider and take a decision in the matter after hearing the petitioner , the manager and other affected parties within a period of two months from the date of receipt of a copy of this judgment. As regards the case of the petitioner based on Rule 6(B), I leave it open.

**K.M.JOSEPH**
**JUDGE**

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